

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

AARON KEITH BLATNER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:18CV186 HEA
)	
CHARLES OCHS, et al.,)	
)	
Defendants.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Defendants’ Motion to Dismiss, [Doc. No. 46]. Plaintiff has not responded to the Motion. For the reasons set forth below, the Motion is granted.

On July 25, 2018, Plaintiff filed his original Complaint listing his address as Northeastern Correctional Facility, 13698 Airport Rd., Bowling Green, MO 63334. On September 20, 2018, Plaintiff filed a Notice of Change of Address indicating his new address was Tipton Correctional Center, 619 N. Osage, Tipton, MO 65081. On February 8, 2019, the U.S. Postal Service returned this Court’s correspondence addressed to Tipton Correctional Center, 619 N. Osage, Tipton, MO 65081, as Plaintiff no longer resided at said address. On February 25, 2019, Plaintiff filed a Motion for Appointment of Counsel. In his Motion, Plaintiff

specifically referenced his current address as being the Farmington Correctional Center, 1012 W. Columbia St., Farmington, MO 63640. Plaintiff failed to advise the Court or counsel for Defendants of this address previous to filing of the Motion.

On August 25, 2019, Plaintiff filed a Notice of Change of Address with the Court indicating that his address was 1321 Trap Rock Rd., Ironton, MO 63650. On September 26, 2019, Plaintiff filed his Motion for Extension. Plaintiff indicated that his current address was 1430 Doubet Rd., Farmington, MO 63640.

Defendant advises the Court that on March 6, 2020, counsel for Defendants caused Notice of Deposition to be served on Plaintiff at both the Trap Rock Road and Doubet Road addresses notifying him of his deposition to be taken on March 24, 2020.

On March 13, 2020, the U.S. Postal Service returned correspondence sent by the Court to Plaintiff addressed to 1430 Doubet Rd., Farmington, MO 63640 as Plaintiff no longer resided there.

Defendant further advises the Court that on March 24, 2020, Plaintiff failed to appear for his deposition. Plaintiff failed to contact counsel for Defendants at any time prior to or immediately after said deposition to offer any explanation for his failure to appear for his deposition.

Plaintiff has not filed with the Court any further Notices of Change of Address or other correspondence with a current, valid address.

Defendant has notified the court of the following: On June 17, 2020, Plaintiff contacted counsel for Defendants by telephone to “find out what was going on with his case.” When asked by counsel for Defendants, Plaintiff confirmed that his address was still 1321 Trap Rock Rd., Ironton, MO 63650 and that “it has been for the last 10 years.” When asked when he was available for deposition Plaintiff stated, “any time.”

On September 25, 2020, the Court served by the U.S. Postal Service a copy of Defendants’ Motion for Leave to Amend the Court’s Case Management Order at the address on file with the Court, 1430 Doubet Rd, Farmington, MO 63640. On October 7, 2020, the U.S. Postal Service returned the Court’s above-referenced correspondence indicating Plaintiff no longer resided at the indicated address. On September 28, 2020, the Court served by the U.S. Postal Service a copy of the Court’s Amended Case Management Order of September 25, 2020, at the Doubet Rd. address on file with the Court. On October 6, 2020, the U.S. Postal Service returned the Court’s above-referenced correspondence indicating Plaintiff no longer resided at the indicated address.

On October 7, 2020, counsel for Defendants caused Notice of Deposition to be served on Plaintiff again at both the Trap Rock Road and Doubet Road

addresses for his deposition on October 23, 2020. On October 23, 2020, Plaintiff failed to appear for said October 23, 2020 deposition. Plaintiff failed to contact counsel for Defendants at any point prior to or after his deposition of October 23, 2020, to notify said counsel of his intention not to attend the deposition or explain his failure to attend. Plaintiff has twice failed, without excuse, to produce himself for deposition though being duly noticed to do so.

Plaintiff has consistently violated Rule 30 Fed.R.Civ.P. by refusing to appear for his deposition and violated E.D.Mo. L.R. 2.06(B) by failing to file with the Court notice of his current contact information.

Rule 41(b) of the Federal Rules of Civil Procedure Provides:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

Fed. R. Civ. P. 41. Plaintiff has failed to prosecute this action by failing to notify the Court of his actual address and by failing to appear for his properly noticed depositions.


Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss, [Doc. No. 46], is granted.

IT IS FURTHER ORDERED that this matter is dismissed.

An Order of Dismissal is entered this same date.

Dated this 20th day of August 2021.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE